

## **Town of Lincoln**

### **Zoning Board of Review**

**100 Old River Road, Lincoln, RI**

**Minutes of June 7, 2016 Meeting**

**Present: David DeAngelis-Chair, John Bart, Lori Lyle, Stephen Kearns, John Barr, Mark Enander, Robert Oster, Town Solicitor**

### **Minutes**

**May Minutes will be presented for approval at the July 12, 2016 meeting.**

### **Correspondence**

**None**

### **Applications**

**Richelle Russell & Paula Carmichael, 32 Southwick Drive, Lincoln, RI  
– Application for Use Variance to construct a detached two car garage in the front yard of property located at 32 Southwick Drive, Lincoln, RI.**

**AP 45, Lot 166 Zoned: RA 40**

**This application represents a request for a Use Variance for an accessory building in the front yard. The applicant proposes to construct a 28'x30' garage in the front yard of this property. The**

applicant does propose to build the garage within the building envelope therefore no dimensional relief is required. The property currently contains a single family home with an in-ground pool in the rear. Section 260-28(B) requires accessory to not intrude into the front yard which is why this Use Variance is required.

Chairman read into the record standards that need to be met for a Use Variance.

Applicants want to construct a 28'x30' garage within the building envelope of the property which fronts on Southwick Drive. The house sits in the middle of the property and proposed location is the best place for construction. The rear of the property has ledge which creates an issue. Access from the side of the property is also an issue. There is also a pool on site which is surrounded by a six foot fence. Applicants do not want to build over existing sewer pipes. Existing house is 1,200 square feet.

Chairman stated he did not see a site plan attached to the application showing the dimensions of the property lines and would like to see one presented to the Members for accuracy. Application may need to be continued to the July agenda so applicant can submit same for review.

Attorney John Shekarchi was present for another application and informed applicants he could provide them with a copy of what the

**Board was looking for.**

**Applicant asked the Board that their application be continued to the July agenda so they could provide a site plan for review.**

**Motion made by Chairman to continue this application to the July agenda. Motion seconded by Member Bart. Motion carried by all present.**

**Jason Taylor, 1004 Great Road, Lincoln, RI - Application for Dimensional Variance seeking front yard setback relief on a newly constructed house located at 1006 Great Road, Lincoln, RI**

**AP 23, Lot 290 Zoned: RS 20 and RA 40**

**Represented by: John Shekarchi, Esquire, 132 Old River Road, Lincoln, RI**

**This application represents a request for a Dimensional Variance for a newly constructed home. The applicant built a new home which encroaches the front setback. The encroachment was discovered by an as-built survey for a certificate of occupancy. The site plan prior to issuance of the building permit had the house completely within the setbacks. The house is 29.11' from the front property line on the northeast corner which 30' is required. Therefore the applicant would need 0.89' of front relief on the northeast corner of the house. The house is 27.61' from the front property line on the southeast corner which 30' is required. Therefore the applicant would need 2.39' of front relief on the southeast corner of the house. The front stairs are**

**23.16' from the front property line which 30' is required. Therefore the applicant would need 6.84' of front relief on the stairway. There are no lot coverage issues.**

**Chairman read into the record standards that need to be met for a Dimensional Variance.**

**All permits were pulled and the house has been constructed but no certificate of occupancy has been issued. The site plan submitted prior to construction showed the house was within the setbacks. The foundation was not accurately poured resulting in the relief applicants are seeking. There is also an outcropping of ledge at the site.**

**Witness**

**Ed Pimentel**

**The house is up but no certificate has been issued. Applicant built the home himself and a class 1 survey was done at the onset. The foundation encroaches the front setback. The request before this Board is not for financial gain and applicant did not set out to be this way. Applicant jockeyed the foundation because of ledge located on the site and the relief asked for is not excessive. Applicant needs relief on three sides.**

**Member Bart asked who decided to move the foundation. Applicant replied there are two large pieces of ledge at the site and he wanted**

**to move the house as far back as possible.**

**Contractor installed the foundation where he was instructed by applicant. The applicant excavated the land and moved the house to the right outside the original plot plan. It was not the intent of the applicant to breach the location of the foundation. The ledge at the rear of the property has a 15% slope. Applicant hired an engineer and the building application was approved for a building permit based on the submission. Russell Hervieux, Zoning Official informed the Board that the stairs were not on the original plot plan and the house sat further back.**

**Attorney Shekarchi stated if the application is approved the hardship is created by the ledge at the rear of the property which was discovered during excavation at the site.**

**Chairman read into the record Planning Board/Technical Review Committed recommendation:**

**Members of the Technical Review Committee visited the site and reviewed the submitted plans and application seeking a front yard setback relief on a newly constructed house located at 1006 Great Road, Lincoln, RI. The Planning Board recommends Approval of this application according to the submitted plans and application.**

**According to the submitted application, the building envelope contained several obstacles that the owner had to contend with when he went to locate the proposed house on the lot. The applicant, acting as his own general contractor, did not know the technical**

**application of the zoning regulations. The Planning Board feels that granting the side yard dimensional variance will not impair the intent or purpose of the Zoning Ordinance, nor the Comprehensive Plan.**

**No opposition present.**

**Motion made by Member Bart to grant the application seeking 0.89' of front relief on the northeast corner of the house; 2.39' of front relief on the southeast corner of the house; and .84' of front relief on the stairway with no lot coverage issues. He further stated:**

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant. There is a large amount of ledge at the site.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan. The house fits into the neighborhood.**
- The relief requested is the least relief necessary.**
- The hardship amounts to more than a mere inconvenience.**

**Motion seconded by Chairman. Motion carried by all present.**

**Anthanasios & Christine Pitliangas, 294 Albion Road, Lincoln, RI – Application for Special Use Permit for a single family residence and proposed accessory family dwelling unit for daughter.**

**AP 31, Lot 30 Zoned: RS 20**

**Represented by: John Shekarchi, Esquire, 132 Old River Road, Lincoln, RI**

**This application represents a request for a Special Use Permit for an accessory family dwelling unit (in-law apartment). The applicant proposes to construct an in-law apartment within the basement area of an existing single family dwelling. No additions are proposed. Section 260-9L allows these kinds of apartments with a SUP.**

**Chairman read into the record standards that need to be met for a Special Use Permit.**

**Application is for the basement to be an in-law apartment for daughter so she can help care for her mother who has Muscular Dystrophy. The house is 3.5 stories high and applicants currently live alone in the house. There is a detached three car garage on site and enough parking for all vehicles. The basement apartment has its own separate entrance and has an existing kitchen, bathroom and living quarters for the daughter. The property meets all criteria.**

**Chairman read into the record Planning Board/ Technical Review**

**Committee recommendation:**

**Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Approval of the Special Use Permit to incorporate an accessory family dwelling unit within proposed single family home to be located at 294 Albion Road, Lincoln, RI. The applicant proposes to build an accessory family dwelling unit in the lower level of the existing single family home. The Planning Board feels that the special use permit will not alter the general character of the surrounding area and will not impair the intent and purpose of the zoning ordinance and the Comprehensive Plan.**

**Rene Remillard, 2 Eagle Nest Drive, Lincoln, RI**

**Represents other neighbors in the area. He has never met the applicants but notes they leave their lights on 24/7 and questioned why. They have a business name on their mailbox and is afraid if the daughter moves in it will cause business traffic. Applicant informed the Board that he does not conduct any type of business from the home. Attorney Shekarchi informed Mr. Remillard that the lights are left on as a security issue and no business is done from the site.**

**Chairman informed applicants that they need to file a yearly affidavit with the Town Clerk stating that only relatives are residing at the property or it becomes a zoning violation**

**Motion made by Member Kearns to approve the application stating:**



- That the Special Use is specifically authorized under this Ordinance
- That the Special Use meets all the criteria set forth in this Ordinance authorizing such special use
- That the granting of the Special Use will not alter the general character of the surrounding area
- That the granting of the Special Use will not impair the intent or purpose of this Ordinance nor the Lincoln Comprehensive Plan

**Motion seconded by Chairman. Motion carried by all present.**

**Motion made by Member Barr to adjourn the meeting. Motion seconded by Member Bart. Motion carried by all present.**

**Respectfully submitted,  
Ghislaine D. Therien  
Recording Secretary**